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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1305th MEETING

Held at Headquarters, New York,
on Tuesday, 29 March 1994, at 3 p.m.

Chairman: Mr. ANDO

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[redacted]

* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1305/Add.1.

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The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Third periodic report of Mexico (continued) (CCPR/C/76/Add.2)

1. At the invitation of the Chairman, Mr. González Felix, Mr. Collado Martínez, Mr. Carrillo Poblano and Ms. Flores Liera (Mexico) took places at the Committee table.

2. The CHAIRMAN said that the Mexican delegation would proceed to answer questions held over from sections I, II and III of the list of issues.

3. Mr. GONZÁLEZ FELIX (Mexico) said that the National Development Plan was a document setting out the development policies and plans of the Government in power for a six-year period; it had no legal validity. Concerning measures taken by the Department of Security and Highways to guarantee the rights of demonstrators, the duties of police in respect of peaceful demonstrations and procedures for ensuring public order during mass demonstrations, he noted that the police were responsible for advising the public about sections of streets to be cordoned off or closed during mass demonstrations. There were no restrictions on the holding of such demonstrations; all that was required under the Constitution was a permit. However, as a result of the disruption of normal city life and the increased pollution caused by such demonstrations, some groups had lodged strong complaints and called for legislation to regulate them.

4. Government employees in "positions of trust" included ministers, deputy ministers and ambassadors, who occupied posts involving great mobility dictated by political circumstances. Such civil servants also enjoyed the right to freedom of association in bodies such as the "Asociación del Servicio Exterior Mejicano" for ambassadors. That practice conformed to the ILO conventions on freedom of association.

5. While the police had the right to form a union and demonstrate in favour of their own interests, the nature and importance of their public duties were such that they could not be allowed to go on general strikes that would endanger public security. The rights of bank staff to strike were likewise limited, as a complete breakdown in the services they performed could threaten the financial stability of whole regions of the country. The reason that only 9.34 per cent of the economically active population was represented by registered trade unions was that the official figure for the economically active population was very low: it did not include workers in the informal sector and covered only the 25 to 30 per cent of the economically active population registered as taxpayers.

6. In response to Mr. Ndiaye's comments he said that in Mexico there had traditionally been a clear distinction between the State and the Church. Recently, a fundamental article of the Constitution had been amended to give ministers of religion the right to vote and churches the right to own basic

(Mr. González Felix, Mexico)

property. Mexico was even considering the possibility of withdrawing its reservation in relation to that particular aspect of the Covenant.

7. Concerning the Calvo Clause, mentioned in paragraph 355 of the report, companies were required in certain instances to insert it in their act of incorporation or registration. With regard to the status and rights of children, under Mexican law, civil institutions, family courts and civil prosecutors dealing with family matters were not allowed to make any distinction between children born in or out of wedlock; all children were equal before the law in all respects.

8. Mr. COLLADO MARTÍNEZ (Mexico) responding to questions regarding the possibility of different political parties taking turns governing the country, said that such a possibility did exist. In the past few years 4 out of 32 federal bodies and over 200 municipalities in the country had been governed by opposition parties. The current mix of political forces was truly unprecedented.

9. With regard to limits on campaign spending, in 1994 the ceiling for presidential campaign funds had been set at the equivalent of US$ 42 million; spending limits for the campaigns of deputies and senators would be decided in the next few days. As to whether political parties could be funded from external sources, article 25 of the Federal Electoral Institutions and Procedures Code forbade parties from signing agreements that subordinated them to the control of any international organizations. It also required them to reject any type of economic or political support or any propaganda promoted from abroad.

10. Mr. CARRILLO POBLANO (Mexico), referring to the presence of international observers at Mexico's elections, said that a third electoral reform was currently under consideration covering, inter alia, the terms of reference of the office of the public prosecutor responsible for election fraud, the composition of the highest administrative body of the Federal Electoral Institute and criteria for the presence of international observers at Mexican elections. Between 1989 and 1993, 27 national bodies had observed local elections, five of which would probably be asked to act as observers during the federal elections to be held in August 1994. In working with international observers, Mexico chose to deal primarily with international organizations such as the United Nations and the Organization of American States. For instance, there were ongoing talks with the United Nations concerning ways and means of training national observers. Mexico also exchanged information with the electoral authorities of other countries such as Canada and the United States of America and with international non-governmental organizations.

11. Mr. GONZÁLEZ FELIX (Mexico) said that the new punishments for traffickers in migrant workers, were so harsh because those individuals violated the fundamental rights of migrants, subjected them to inhuman treatment and tricked them by offering them non-existent jobs.

12. Ms. FLORES LIERA (Mexico) added that, as a result of the 1992 amendments to the General Population Act, the punishment for those found guilty of smuggling or being involved in the smuggling of people abroad or into Mexico was 2 to 10 years of imprisonment and fines of up to 10,000 days of the minimum salary provided for by law at the time the crime was committed.

13. Mr. GONZÁLEZ FELIX (Mexico), referring to Mr. Aguilar's comment on the concept of the family in paragraph 287, said that no discrimination against childless couples had been intended. Concerning the right of workers in the banking sector to strike, bank strikes were limited under Mexican law because they disrupted the country's financial services. Bank employees had always had unions, even when banks had been nationalized or privatized. As to the political affiliation of trade unions, such unions were usually classified as business, industrial, State, private or professional unions. However, there was no specific register of union affiliation with political parties. Individual members of trade unions were entitled to their own political views.

14. Mrs. Evatt had asked about irregular conduct by public servants. The offices of the internal civil service comptroller were established by various authorities to monitor their performance and punish officials or authorities who did not comply with established procedures. They monitored suspensions and dismissals of civil servants, and it was through such monitoring that procedures were adopted by the bodies concerned to prevent violations such as searches and detentions. That system was widely used within the federal Government.

15. The demonstrations in Chiapas had been similar to demonstrations that had occurred in other regions of Mexico. A number of crimes committed in Chiapas would not have been considered seditious in other parts of the country, and that had been one of the main complaints of the people of Chiapas. Many of the provisions of the agreement reached in the aftermath of the events had been considered by the National Human Rights Commission, which was empowered to review laws when so requested by the States.

16. With regard to Mr. Pocar's request for information on the arrest of a trade union leader in the north of Mexico and problems in connection with the Volkswagen plant at Puebla in 1993, he would need more time to obtain detailed information from Mexico. On the question of assumption of the office of President, article 82 of the Constitution had been amended to stipulate that after 20 years of residence in Mexico, a child of mixed Mexican and foreign parentage could become eligible to assume that office.

17. Mr. PRADO VALLEJO welcomed the advances which Mexico had made in strengthening its democracy and in promoting economic development and respect for human rights. The Committee hoped that the electoral reforms currently under way would permit broader sectors of the society to participate in the democratic process and thereby dispel the perception of a political monopoly. The establishment of the National Human Rights Commission was further evidence of the Government's readiness to promote and protect human rights more effectively.

(Mr. Prado Vallejo)

18. Much more needed to be done, however. Despite the Government's efforts, there were continued reports of torture, arbitrary arrests and detention and ill-treatment of detainees. New machinery was needed to put an end to such abuses by the security forces. For its part, the National Human Rights Commission must be given increased powers, and its recommendations must be made binding on all national institutions.

19. Mr. HERNDL said that the establishment of a National Human Rights Commission with the power to investigate specific complaints showed that the Government was sincere in its efforts to strengthen and protect human rights. Further action was still needed, however, to achieve that objective. The legal underpinning of the Commission's activities must be strengthened and precise norms must be elaborated to regulate the actions of the police, particularly the use of force.

20. While recognizing the exceptional nature of the events which had followed the Chiapas uprising, he was nevertheless disturbed by reports of human rights abuses by the security forces. He hoped that the investigation in progress would establish the truth about those allegations.

21. He drew attention to the report of the International Centre for Human Rights and Democratic Development on its mission to investigate human rights violations in Chiapas and to the recommendations which that body had made to the Mexican Government. He hoped that the recommendations would be implemented and welcomed the Government's decision to create a National Commission of Social Justice for Indigenous Peoples to ensure more effective protection of the land rights and traditional resources of the indigenous population.

22. Mrs. CHANET welcomed the progress made by Mexico in the field of human rights since the submission of its second periodic report, particularly the introduction of legislation which provided for the compensation of torture victims and the creation of a National Human Rights Commission. The latter should, however, become more independent of the executive branch and should be empowered to refer specific cases directly to the judicial branch.

23. The human rights violations which had followed the events in Chiapas were a matter of grave concern, particularly since a state of emergency had not been officially proclaimed in accordance with article 4 of the Covenant. The general climate of violence and the lack of transparency of the electoral system made it difficult to protect the electoral rights envisaged under article 25 of the Covenant. The reported cases of torture and illegal detention must be investigated and security officials must be properly trained in order to put an end to such practices. In view of the lack of confidence in the electoral system and in the representativity of elected officials, she hoped that the Government of Mexico would agree to the presence of international observers in order to enhance the transparency and credibility of the system and to dispel doubts about its fairness.

24. Mr. BRUNI CELLI said that the detailed report was evidence that the Government of Mexico took its reporting obligations seriously. Definite

(Mr. Bruni Celli)

progress had been made in strengthening human rights in Mexico at the institutional level, and he welcomed in particular the broad political dialogue that had been initiated in the wake of the events in Chiapas. Yet while institutional reforms were necessary for the promotion of human rights, equal emphasis must be placed on the practical application of legislation. He therefore hoped that the next periodic report would contain information on the progress made in that area.

25. Mrs. HIGGINS said that the human rights picture in Mexico was a complex one. Despite the formal attributes of a democracy, the excessive centralization of power and the deference of the press to the ruling party gave Mexico the characteristics of a one-party State, albeit a beneficent one. Nevertheless, the current reforms of the electoral system and the creation of the National Human Rights Commission were evidence of the political will to improve the human rights situation in that country. She was particularly encouraged by the steps taken to put an end to the practice of torture.

26. The Committee remained concerned, however, over such issues as the exploitation of minors and the limited powers of the National Human Rights Commission, and felt that the Commission's recommendations should be binding on all institutions. The application of the remedy of amparo was another source of concern, since it could be invoked only against a threatened harm but not against past perceived abuses.

27. With regard to the events in Chiapas, the Committee was awaiting the results of the special investigation. It was clear, however, that the problem would not end with the trial of individuals, since the underlying problem was the indigenous people's entitlement to land and resources.

28. Mr. DIMITRIJEVIĆ said that the human rights situation in Mexico involved not only legal and institutional issues but also certain societal attitudes which affected the enjoyment of human rights. Attempts to put an end to the practice of torture through legislation, for example, would be ineffective, since violence and torture seemed to be acceptable methods of operating in Mexico. Efforts must therefore be made to change Mexican society's fundamental attitudes towards violence.

29. Mexico was still a "guided democracy" whose political system was heavily weighted in favour of one party. The new international realities, however, made it even more necessary to introduce transparency into the electoral system and to permit broader participation in and understanding of the democratic process.

30. He was concerned by the plight of the poor in Mexico and by the particularly high incidence of poverty among the indigenous population. Poverty, which was usually associated with the lack of education, demonstrably affected the ability of individuals to claim their civil and political rights. Recourse to such legal remedies as amparo, for example, often depended on the quality of legal counsel.

(Mr. Dimitrijević)

31. He was also concerned about the restrictions on freedom of movement in Mexico and by the ready justification of the recourse to expulsion. In that connection, he hoped that the next report would reflect not only changes in the law but also concrete progress in that area.

32. Mr. LALLAH said that the problem in Chiapas was rooted in the indigenous population's way of life and its attachment to the land. Unless the problem was tackled at its roots, it would never be satisfactorily resolved.

33. On the subject of amparo, he found it odd that where actual harm, such as illegal detention, had been done, the courts had no power to apply a remedy but instead shifted responsibility onto the National Human Rights Commission, which did not have the powers of a court of law. He was also puzzled by the passing reference made by one of the representatives of Mexico to the fact that there were special crimes in the state of Chiapas. Paragraph 21 of the core document for Mexico (HRI/CORE/1/Add.12) also stated that the 31 States of Mexico were free, sovereign and autonomous, and he had always assumed that all 31 States of the Republic were governed by the same laws. If indeed there were differences between the laws of individual States, then the Committee should be made aware of those differences so that its comments on each article would be based on the legislation actually in force.

34. Mr. POCAR said that, although Mexico had made undisputed progress in strengthening human rights institutions and ensuring the practical enjoyment of human rights since its second period report, a number of areas of concern still remained. The practices of torture and arbitrary detention continued, and the effectiveness of the remedies applied was open to question.

35. On the subject of alleged human rights abuses committed in the wake of the Chiapas uprising, he was of the view that the Government's actions had violated article 4 of the Covenant, since an official state of emergency had not been proclaimed. He was not convinced by the Government's response that the situation did not warrant the proclamation of a state of emergency and noted that the Mexican delegation itself had described the situation as one of war.

36. He hoped that efforts to strengthen the institutional framework for the protection of the rights of the indigenous population and to enhance the effectiveness of the National Human Rights Commission would continue.

37. Mr. EL-SHAFEI said he had been impressed by the positive role Mexico had played in the promotion of human rights. Its third periodic report had enabled the Committee to learn more about the country's economic, social and political structures and how they affected the application of the Covenant. He shared other Committee members' concerns regarding the alarming situation in the state of Chiapas: the manner in which the country had handled that situation had tarnished its human rights reputation. He therefore hoped that the fruitful and cordial dialogue which had taken place in the Committee would have a positive influence and prompt the Mexican authorities to review their position with regard to the situation in Chiapas.

38. Mr. WENNERGREN joined in commending the delegation of Mexico for providing such detailed information regarding the situation of human rights in that country. Though it had been difficult to obtain a full understanding of the current situation, it was clear that some progress had been made in the area of human rights.

39. However, he had doubts as to the strength of the Covenant in Mexico. To assume that the Constitution and domestic legislation dealt sufficiently with human rights issues might allow the Covenant to be overlooked. Such reasoning might explain why article 4 of the Covenant had not been applied and no reports had been made to the United Nations when the country had been faced with a public emergency.

40. The investigative powers of the National Human Rights Commission should be strengthened and the Commission should be given more concrete opportunities for intervention. He questioned whether the "amparo" remedy was as effective as it might be; he believed that it, too, could be strengthened.

41. Mrs. EVATT said she had been impressed with the quality of the information provided on the current situation in Mexico and the seriousness with which the issues had been addressed. The problems of arbitrary detention and the ill-treatment and torture of detainees stemmed from the impunity enjoyed by the authorities and called for a change in practice. The effective exercise of democratic rights required greater confidence on the part of the people in their institutions. The National Human Rights Commission had helped to build such confidence. However, the next few years would reveal whether those efforts would lead to a genuine reduction in inequalities.

42. Mr. SADI commended the seriousness and candour of the Committee's dialogue with the representatives of Mexico. He believed that the natural dynamics of domestic developments in that country, together with the numerous human rights treaties it had ratified and the North American Free Trade Agreement (NAFTA), would contribute to the development of a human rights culture there. Nevertheless, he shared his colleagues' concerns at the current status of the Covenant in Mexico. The Covenant should be viewed as a second constitution which guided human rights policies and practices, but it did not appear to perform that function in Mexico. The emergency situation in the state of Chiapas and related reports of torture, arbitrary arrests and extrajudicial executions had demonstrated the persistence of serious problems in Mexico. He nevertheless believed that, with political will and economic development, Mexico would eventually be able to meet its obligations under the Covenant.

43. Mr. MAVROMMATIS said that the Government had responded well to the events in Chiapas, but must now tackle the problems that lay behind the uprising. While a genuine effort had been made to improve the electoral system, further work was needed. Similarly, while the National Human Rights Commission had done excellent work, it must strengthen its role if it was to remain credible. Finally, more vigorous attempts to deal with the problems of torture and disappearing persons were needed to build on the progress achieved in those areas.

44. Mr. FRANCIS said that although the Committee's responses to the report appeared to be critical at times, he was satisfied that Mexico was on the way to achieving the highest level of implementation of the Covenant. The National Human Rights Commission had a major role to play in the fulfilment of human rights in Mexico, and he agreed that its decisions should be legally binding.

45. With regard to the situation of the rights of detainees, he understood how a country as large as Mexico could face overcrowding and shortages of food and water in its prisons. Based on his own experience in Jamaica, he suggested that the Mexican Government might have inmates grow crops to increase their food supply, to become self-sufficient within a few years.

46. Mr. AGUILAR joined in commending the report, which had revealed serious problems in Mexico. He, too, was concerned at the situation in Chiapas and possible abuses of the political rights of the indigenous people there. Nevertheless, there appeared to be a climate of change for the better in Mexico, which currently stood as a beacon for the majority of Latin American countries.

47. He suggested that the proposal to introduce one hour a week of military training in lieu of compulsory military service should be further explored, although he conceded that it might also elicit objections.

48. The CHAIRMAN thanked the representatives of Mexico for the frankness with which they had engaged in dialogue with the Committee. He wished to stress that the purpose of such dialogue was not to criticize Governments but to help them to face problems squarely and find solutions. He hoped that the Committee's comments would be conveyed to the Mexican Government and that further progress would be reflected in future periodic reports.

49. Mr. GONZÁLEZ FELIX (Mexico) said that as in past, the Committee's recommendations would be duly analysed with a view to implementing them. He noted also that the recent events in Chiapas had occurred after the third report of Mexico had been prepared. His delegation intended to transmit an updated document regarding that situation to the Committee.

50. Mr. González Felix, Mr. Collado Martínez, Mr. Carrillo Poblano and Ms. Flores Liera (Mexico) withdrew.

The public part of the meeting rose at 5.15 p.m.